

8 FEB 1971

MEMORANDUM FOR: Executive Director-Comptroller

SUBJECT: Proposed CIA Retirement Act Amendments,
"Second Spouse"

1. Among other things, P. L. 91-658, approved 8 January 1971, enlarges the area of eligibility for a spouse to receive survivor benefits under the Civil Service retirement system. The change in concept reflected in this new law is valid for all Federal retirement systems, including the CIA retirement system, but so far, the law has been changed only for the Civil Service system. In the absence of comparable changes in the CIA Retirement Act, the following inequities could arise concerning the payment of survivor annuities to a spouse under the CIA, rather than the Civil Service, retirement system:

a. Widower of Female Employee

The non-dependent widower of a female employee dying in service would not be eligible for a survivor annuity (e. g. minimum of 55% of 40% of average basic salary).

b. Unmarried Retirees

The surviving spouse of an employee unmarried at the time of retirement would not be eligible for a survivor annuity.

c. Married Retiree

A retiree's annuity reduced at the time of retirement to provide for a survivor annuity for spouse would continue at the reduced rate following the death of the spouse, but any subsequent spouse would not be eligible for the survivor annuity.

2. P. L. 91-658 also provides that any supplemental annuity earned by a married retiree who re-enters Federal employment following retirement shall be included in the calculation of annuity for the surviving spouse. Possibly, application of this concept to the CIA Retirement Act is neither feasible nor warranted in light of the complexity involved and the possibility that the relatively small potential increase in survivor annuities may be more than offset by Social Security benefits which could be otherwise earned during the re-employment period.

3. Proposed legislation updating the CIA Retirement Act to the provisions of P. L. 658 as set forth in paragraph 1 above is attached. The key staff personnel of the Senate and House Armed Services Committee foresee no problems in our obtaining favorable consideration of these conforming amendments and, indeed, are expecting that we will be transmitting them to the Congress shortly.

4. The pros and cons of proceeding at this time

The importance of obtaining these amendments must of course be weighed against our interests in maintaining a low profile on the Hill. In evaluating these interests, the following factors seem relevant:

a. Equity

In any one case, the inability to make payments under the CIA Retirement Act would be a gross inequity since fundamental concepts are involved and there is no reason for the CIA system to be different from the Civil Service system.

b. Timing

Generally we have been most successful in moving legislation at the close of a Congressional session. Also, action late in a Congressional session presents an opportunity to pick up any new legislation items approved earlier in that session (the problems encountered in getting a bill through the Congress are substantially the same regardless of the number of provisions it contains). Finally, action at the close of a session presents a lower profile in the mass of legislation normally moved routinely through the Congress as adjournment nears. However, we would not be foreclosing any of our options on the timing of Congressional action by transmitting our proposal to OMB at this time.

c. Funding

Any proposed CIA Retirement Act amendments we submit to OMB will probably again trigger the need to resolve the funding question (See Attachment B). The Director of Finance and the Director of Personnel believe that it is in our interests to resolve the funding question as soon as possible, although no emergency is involved and a delay beyond the close of the 92nd Congress could be tolerated without serious effect. Our position on funding of the CIA Retirement Act is that we would be willing to adopt the system approved for Civil Service and Foreign Service by the last Congress. The outstanding issue to be resolved involves all major Federal staff retirement systems and concerns a uniform definition of the key term "unfunded liability". The Director of Finance believes that it makes no real difference to this Agency and the employees covered under the CIA retirement system whether the term is defined in accordance with the existing law for Civil Service and Foreign Service or as proposed by Treasury.

d. Number of Cases

Based on the data available to the Director of Personnel, there is no known case as of this date of a surviving spouse covered under the CIA Retirement Act being denied a survivor annuity solely because we have not obtained changes comparable to those enacted in P. L. 91-658. The longer the delay in obtaining parallel amendments, the greater the probability that we will have such cases, although this potential problem can be overcome somewhat if we succeed in making the amendments retroactive. We have been successful in this regard in the past, but in general, the Congress is reluctant to provide for retroactivity.

e. Climate in Committee

The senior staff members of our Armed Services Committee foresee no problem in early action on the amendments. However, our low profile is not to overcome a problem we have with the Committees, but potential problems we might have on the floor.

5. Recommendation

In view of the above considerations it appears, on balance, that it would be best to transmit the attached proposed CIA Retirement Act amendments to the Office of Management and Budget now. Timely transmittal will strengthen our case for an effective date identical to the effective date of the Civil Service amendments, if needed. It will also precipitate a resolution, hopefully, of the outstanding funding problems. Such action would not foreclose our option to delay actual Congressional consideration following OMB's clearance, since there is no general requirement to transmit proposed legislation to the Congress following OMB's approval. A further safeguard

on timing is that proposed legislation could be held up in the Armed Services Committee until the time is right. For these reasons, transmittal at this time to OMB is strongly recommended.

[Redacted Signature]

John M. Maury
Legislative Counsel

STAT

CONCURRENCE:

_____ General Counsel	_____ Date
_____ Director of Finance	_____ Date
_____ Director of Personnel	_____ Date
_____ Deputy Director for Support	_____ Date

APPROVED:

_____ Executive Director-Comptroller	_____ Date
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OLC:LLM:rcr (5 February 1971)